

BOARD OF EQUALIZATION RULES FOR TAX APPEALS

California Code of Regulations
Title 18. Public Revenues
Division 2.1. State Board of Equalization – Rules for Tax Appeals
Chapter 2: Sales and Use Tax, Timber Yield Tax, and Special Taxes and Fees

ARTICLE 7: OPTIONAL BRIEFS FOR BOARD HEARINGS

5270. REQUIREMENTS FOR BRIEFS; BRIEFING SCHEDULE; NON-PARTY BRIEFS; ADDITIONAL BRIEFING.

(a) Optional Briefing. If a party to an Appeals Conference or person requesting relief is granted a hearing before the Board, the parties to such hearing may submit briefs in accordance with the rules set forth in this section. However, all briefs permitted to be filed under this section, other than briefs required by paragraphs (1) and (3) of subdivision (f), are optional.

(b) Requirements for Briefs.

(1) Timeliness. All briefs must be filed within the time periods provided in this section unless an extension is granted by the Chief Counsel in accordance with section 5271.

(2) Filing.

(A) Electronic Filing. The Board encourages the use of electronic means (i.e., facsimile, e-mail, etc.) for the filing of briefs and related documents. Briefs and related documents may be filed electronically under this section if they are transmitted to the Chief of Board Proceedings in accordance with instructions provided on the Board's website at www.boe.ca.gov.

(B) Other Methods. Briefs and related documents may also be hand delivered to the Board's headquarters at 450 N Street in Sacramento, California, or mailed to the Chief of Board Proceedings, at the following address:

Chief of Board Proceedings, MIC: 80
State Board of Equalization
P.O. Box 942879
Sacramento, CA 94279-0080

(C) The Chief of Board Proceedings may reject any brief or related document filed in any manner that is not authorized by this section.

(D) Notice. All briefs shall also be mailed or personally delivered to the other parties to the Board hearing, other than the Department represented at the appeals conference under section 5264, subdivision (b).

(3) Format. Briefs may not exceed:

(A) 30 typed or handwritten, double-spaced, or 15 typed or handwritten, single-spaced;

(B) 8 1/2" by 11" pages;

(C) Printed only on one side in a type-font size of at least 10 points or 12 characters per inch, or the equivalent;

(D) Excluding exhibits.

(4) The Chief Counsel may extend the page limit in paragraph (3) prior to the deadline for filing a brief based upon a written application setting forth circumstances that justify additional pages. In the event a brief does not conform to the form and page limits specified above, the submitted brief may be returned by the Chief of Board Proceedings. If a brief is so returned, the party will be given 10 days to comply with the form and page limits, and failure to do so within the 10-day period constitutes a waiver of the opportunity to submit the brief.

(c) Opening Briefs. Any party that requested a Board hearing under section 5266 may file an opening brief. An opening brief must contain a statement of the issues, a statement of the facts, and a discussion of the legal authorities, including statutes and regulations, relied on by the party submitting the opening brief.

Opening briefs must be filed with the Chief of Board Proceedings no later than 55 days before the Board hearing.

(d) Reply Briefs. Any party to a Board hearing may file a reply brief in response to any opening brief. A reply brief must contain a statement of the issues, including relevant issues not raised by the opening brief, a statement of the facts as understood by the party submitting the reply brief, a discussion of the legal authorities, including relevant statutes and regulations, relied on by the party submitting the reply brief, and the assertion of any affirmative defenses. Reply briefs must be filed with the Chief of Board Proceedings no later than 35 days before the Board hearing.

(e) Response to Reply Brief. Any party to a Board hearing may file a response to a reply brief. A response to a reply brief may only address new issues or arguments raised in the reply brief to which it responds. A response to a reply brief must be filed with the Chief of Board Proceedings no later than 20 days before the Board hearing. The Chief of Board Proceedings must reject a response to a reply brief that exceeds the scope permitted by this subdivision.

(f) Additional Briefing.

(1) Post-Hearing Briefs. The Board may permit or require the filing of post-hearing briefs and memoranda of legal authorities, including relevant statutes and regulations, on any matters considered at a Board hearing. However, any post-hearing submissions are permitted only by order of the Board, on the subject matter specified, and within the time limits prescribed by the Board.

(2) Non-Party (Amicus) Briefs. A person that is not a party to a Board hearing may file a brief or letter with the Chief of Board Proceedings no later than 20 days before the Board hearing, and the parties may file responses to such brief or letter with the Chief of Board Proceedings no later than 10 days before the hearing. The response by any party may address only the points of disagreement the party has with the non-party brief or letter. A non-party post-hearing brief or letter may be filed only if the Board has requested post-hearing briefing from the parties and then no later than the end of the post-hearing briefing period prescribed by the Board for the parties. A non-party brief must conform to the general requirements set forth in subdivision (b). A non-party brief or letter must contain a statement regarding the nature of the non-party's interest in the outcome of the proceeding.

(3) Additional briefing. In extraordinary situations, the Board or Appeals Staff may request additional briefing from either party after the briefing period is ordinarily complete. Any such requested briefing must be filed within the time specified by the Board or Appeals Staff.

(g) Briefs Filed by Unrepresented Parties. Notwithstanding subdivisions (c), (d), and (e), a party who appears at a Board hearing without a representative, and who has not employed a representative to prepare a brief, may, at the discretion of the Board, submit a brief on the day of the hearing. A party who receives representation from a Board-approved pro bono or clinical program is considered to be unrepresented for purposes of this subdivision.

Note: Authority cited: Government Code section 15606; Revenue and Taxation Code sections 7051, 8251, 9251, 13170, 30451, 32451, 38701, 40171, 41128, 43501, 45851, 46601, 50152, 55301, 60601.

Reference: Revenue and Taxation Code sections 6074, 6456, 6538, 6562, 6592, 6593, 6593.5, 6596, 6814, 6901, 6902, 6906, 6981, 7657, 7657.1, 7658, 7658.1, 7700, 7700.5, 7711, 8126, 8128, 8191, 8828, 8828.5, 8852, 8877, 8878, 8878.1, 8879, 9151, 9152, 9196, 12429, 12636, 12637, 12951, 12977, 12978, 12981, 30175, 30176, 30176.1, 30176.2, 30177, 30178, 30178.1, 30243, 30243.5, 30262, 30282, 30283, 30283.5, 30284, 30361, 30362, 30365, 30421, 32255, 32256, 32256.5, 32257, 32302, 32312, 32313, 32401, 32402, 32402.1, 32404, 32407, 32440, 38433, 38435, 38443, 38452, 38453, 38454, 38455, 38601, 38602, 38605, 38631, 40093, 40102, 40103, 40103.5, 40104, 40111, 40112, 40115, 40121, 41087, 41096, 41097, 41097.5, 41098, 41100, 41101, 41104, 41107, 43157, 43158, 43158.5, 43159, 43303, 43351, 43352, 43451, 43452, 43454, 43491, 45155, 45156, 45156.5, 45157, 45303, 45352, 45353, 45651, 45652, 45654, 45801, 46156, 46157, 46157.5, 46158, 46302, 46303, 46353, 46501, 46502, 46505, 46511, 50112.2, 50112.3, 50112.4, 50112.5, 50116, 50120.2, 50120.3, 50139, 50140, 50142, 50151, 55044, 55045, 55046, 55046.5, 55083, 55102, 55103, 55221, 55222, 55224, 55281, 60209, 60210, 60211, 60212, 60332, 60333, 60352, 60501, 60502, 60506, 60507, 60521, 60522, 60581.

History: 1. New section adopted 9-12-2007; effective 2-6-2008.